



The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115-1075

SDMS Document



84418

March 2, 1995

VIA FEDERAL EXPRESS

Patricia Hick, Esq.
United States Environmental Protection Agency
Office of Regional Counsel
New Jersey Superfund Branch
290 Broadway, 17th Floor
New York, NY 10007-1866

MAR 03 1995

RECEIVED

Re: Request for Information Regarding the Diamond Alkali Superfund Site
Passaic River Study Area, New Jersey

Dear Ms. Hick:

This letter is in response to the Request for Information regarding the above-captioned site sent to The Sherwin-Williams Company for its facility which was located at 60 Lister Avenue in Newark, New Jersey. Sherwin-Williams understands this response to be timely submitted and reserves its rights to submit additional or new information if obtained. Without waiving any rights or privileges and not admitting to any facts or liabilities, Sherwin-Williams responds as follows:

1. Sherwin-Williams has operated at the 60 Lister Avenue facility since approximately 1902.
2. The Lister Avenue facility maintains a USEPA generator ID # NJD002451870 that is believed to have been issued to this facility in 1980.
- 2 (b) This facility has been issued a storm water permit from the New Jersey Department of Environmental Protection in 1993 permit #NJ0088315 and the facility has a permit with the Passaic Valley Sewer Commission permit #20401500 that was issued in 1985.
3. No information has been obtained that would indicate that the Lister Avenue facility ever received, utilized, manufactured, discharged, released or disposed of 2, 3, 7, 8 tetrachlorodibenzo-p-dioxin or other dioxin compounds including dichlorodophenyl-trichloroethane (DDT). The remaining substances, pentachlorophenol, cadmium, copper, mercury, lead, zinc, methyl ethyl ketone, ethyl benzene, toluene and xylene may have been present in raw products used at the facility prior to 1984. Since 1984, this facility has produced a non-hazardous latex paint which may contain zinc.

HS



Patricia Hick, Esq.

March 2, 1995

Page - 2 -

4. (a) The Lister Avenue facility has not manufactured any products that contain any of the hazardous substance listed in question 3. This facility produced a water-based latex paint since 1984. Prior to 1984, this facility manufactured resins, varnish, oil and water-based latex paint.

(b) (i)(ii)(iii) Sherwin-Williams has not identified any information as to whether hazardous substances were generated during the manufacturing process or that any hazardous substances were ever mixed with any other waste produced from the facility.

5. Sherwin-Williams has not collected stored, treated or disposed of any hazardous substances since 1984 at this facility.

(a) Prior to 1984, Sue Free was responsible for disposal of hazardous substances from this facility.

(b) Sherwin-Williams used various waste haulers and trash brokers to dispose of hazardous waste at various waste disposal facilities.

(c) Sherwin-Williams stored its raw product in tanks, drums, containers and in warehouses for the production of paints and paint products throughout various areas of the facility.

6. (a) In response to 6(a)(i)(ii)(iii), Sherwin-Williams states that at least since 1984, the waste water streams from this facility are processed through a settling and filtration system to remove solids and sludges and the remaining waste water is discharged into the sanitary sewer system.

(b) In response to 6(b) and its subparts, Sherwin-Williams states that there are floor drains existing at the facility and are connected to a process system running to a settling tank to collect solids and then pass the waste water into the sanitary sewer system. There is no information that would indicate that these drains have not been connected to the sanitary sewer system since the plants began operation.

(c) (i) Sherwin-Williams has never had a catch basin or lagoons at this facility but storm sewers do exist on the property.

(ii) See response to 6(c)(i).

844180002



Patricia Hick, Esq.

March 2, 1995

Page - 3 -

(iii) Sherwin-Williams has not obtained any information as to where the discharge from the storm sewer or sanitary sewer occurred. ?

(d) Sherwin-Williams has attached the only drawing found in response to this question.

7. (a) Sherwin-Williams has not generated any hazardous substance from this facility from 1984.

(b) Sherwin-Williams has not identified any information that would indicate any material was ever discharged into the Passaic River. start ①

8. A small release of water-based latex paint (non-hazardous) was accidentally released into the river March 30, 1992. The U.S. Coast Guard and other authorities were notified of the release and inspected the river. No action was required of Sherwin-Williams. ①

9. Sherwin-Williams has not obtained any information other than that described in response to question number 8.

10. In response to this question and its subparts, the facility experienced a flood in December of 1992 when the sewers backed up as a result of the Passaic River cresting over the established bulkheads.

11. In response to this question, Sherwin-Williams has attached the requested documentation.

12. Sherwin-Williams states that the documentation as requested in question No. 12 including manifest inventory forms and billing records are located at the Lister Avenue facility and can be made available for inspection and copying at a mutually convenient time.

13. The facility has numerous records pertaining to sanitary sewer monitoring reports, BOD monitoring reports, air monitoring reports and groundwater reports. Due to the high volume of the documents, they can be produced for inspection at mutually convenient times. what years? ②

844180003



Patricia Hick, Esq.

March 2, 1995

Page - 4 -

14. (a) This facility has been owned and operated by The Sherwin-Williams Company since 1902.

(b) See response to Question No. 14.

(c) See response to Question No. 14.

15. In response to Question No. 15, and all of its subparts, Sherwin-Williams submits its Annual Report, Articles of Incorporation and Bylaws to which the answer to the Question is and its subparts can be ascertained.

16. The person answering this request is Donald J. McConnell, Counsel for The Sherwin-Williams Company, and obtained the information to respond to these questions from the following individuals:

(a) Dr. Gordon Kuntz
Regulatory Compliance
The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, OH 44115

(b) Sue Free
Environmental Specialist
The Sherwin-Williams Company
1450 Sherwin Avenue
Oakland, CA 94608

(c) Wayne Murphy
Facility Manager
The Sherwin-Williams Company
60 Lister Avenue
Newark, NJ 07105

(d) Marnie Sabatine
Environmental/Chemist
The Sherwin-Williams Company
60 Lister Avenue
Newark, NJ 07105

844180004



Patricia Hick, Esq.

March 2, 1995

Page - 5 -

Pursuant to the Freedom of Information Act, The Sherwin-Williams Company is requesting a copy of any and all information your agency may have that would indicate the Lister Avenue facility is linked to the contamination of the Passaic River. Please forward all future correspondence directly to my attention. Should you have any questions or comments, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Donald J. McConnell".

Donald J. McConnell
Environmental Counsel
(216) 566-3741

DJM:ms

844180005

844180006

PRELIMINARY ACCIDENT/ENVIRONMENTAL INCIDENT REPORT

1. GENERAL INFORMATION

REPORT BY SUE FREE LOCATION NEWARK DATE 4/1/92INFORMATION TAKEN
BY _____DATE OF INCIDENT AND LOCATION 3/30/92 TIME OF
INCIDENT NOONTYPE OF
OPERATION CLEANING OF LATEX PAINT SOLIDS SETTLING TANK
(SLUDGE CONE)FATALITY/SERIOUS INJURY _____ ENVIRONMENTAL
INCIDENT SPILL

OTHER _____

2. PERSONNEL INVOLVED

NAME AND EMPLOYEE
NUMBER _____SEX, AGE, MATERNAL
STATUS _____JOB CLASSIFICATION _____ COMPANY
SERVICE _____PLANT LOCATION OF
ACCIDENT _____NATURE OF
INJURY _____

844180007

3. SPILL INFORMATION**SUBSTANCE**SPILLED LATEX PAINT WASTE SOLIDS**LOCATION OF
SPILL****DATE/TIME AND DURATION OF
OCCURRENCE** 10 - 15 MINUTES**DATE/TIME OF
DISCOVERY** 12:00 NOON**RELEASE WAS TO (AIR, WATER,
GROUND)** WATER (PASSAIC RIVER)**SOURCE OF
SPILL** SLUDGE CONE OVERFLOWED AND SPILLED INTO A STORM DRAIN
WHILE BEING CLEANED BY A CONTRACTOR.**QUANTITY
DISCHARGED** LESS THAN 50 GAL**QUANTITY DISCHARGED WHICH REACHED A SURFACE WATER
BODY** LESS THAN FIFTY GAL**SIZE OF SHEEN (FOR OILS
ONLY)****WEATHER
CONDITIONS** LOW TIDE**CONTAINMENT/REMOVAL
ACTION** SLUDGE SPILLED ON MUD WAS CLEANED UP BY CONTRACTOR'S VAC
TRUCK. SLUDGE IN THE WATER WAS NOT CONTAINED**4. DESCRIPTION OF ACCIDENT/ENVIRONMENTAL INCIDENT**

844180008



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTIONDIVISION OF
FISH, GAME AND WILDLIFE
RUSSELL A. COOKINGHAM
DIRECTORPLEASE REPLY TO:
CN 400
TRENTON, NEW JERSEY 08625

10Sept86

Plant Manager
Sherwin Williams
Brown St. & Lister Ave.
Newark, N.J.07101

Dear Sir,

On 9Jun86 and subsequent dates, personnel of the N.J. Div. of Fish, Game, & Wildlife conducted an investigation into a reported discharge of Paint pigments into the Passaic River. It was determined that the pigments had emanated from the Sherwin Williams facility at the above location during a cleaning operation.

This incident is a violation of Title 23, N.J. Revised Statutes, copy enclosed. A notice of violation is attached. Deputy Attorney General Neil Magnus, Dept. of Law & Public Safety, CN-112, Trenton, N.J., 08625, (609-292-6945) may be contacted regarding this notice.

Very Truly Yours,

John L. Mihatov
Lt., Bureau of Law Enforcement

New Jersey Is An Equal Opportunity Employer



844180009

COATINGS

The Sherwin-Williams Company
Post Office Box 717
Brown Street and Lisler Avenue
Newark, New Jersey 07101
Phone: (201) 344-7000

September 29, 1986

Mr. Russell A. Cookingham
Director
New Jersey Division of Fish,
Game & Wildlife
CN-400
Trenton, N.J. 08625

Re: Violation of Title 23:5-28

Dear Mr. Cookingham:

In accordance to the Notice of Violation dated 10 September 1986, we are enclosing a certified check in the amount of \$300 as full settlement.

Yours truly,

SHERWIN-WILLIAMS COMPANY

A handwritten signature in cursive script, appearing to read "A. Petee".

A. Petee
Plant Manager

AGP:fl
encl.
check 1538310

cc: Bureau of Freshwater Fisheries
PO Box 394
Lebanon, N.J. 08833 (Cover letter only)

CS 545

WILLIAMS NWK

AT:NT NH

CS-70-KHL

FIDELITY UNION BANK No. 1538310
NEWARK, NEW JERSEY

DATE 09/29/86

65.9
212

PAY **FFBNANJ300 AND 00 CTS**

TO THE
ORDER OF **NEW JERSEY DIVISION & FISH GAME WILDLIFE**

TREASURER'S CHECK

[Signature]
AUTHORIZED SIGNATURE

844180011



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTIONDIVISION OF
FISH, GAME AND WILDLIFE
RUSSELL A. COOKINGHAM
DIRECTORPLEASE REPLY TO:
CN 400
TRENTON, NEW JERSEY 08625RETURN RECEIPT REQUESTEDPlant Manager
Sherwin Williams
Brown St. & Lister Ave.
Newark, N.J., 07101DATE: 10Sept86NOTICE OF VIOLATION

Gentlemen:

Investigation by personnel of this Division on 9Jun86 & subsequent dates found your firm to be in violation of N.J.S.A. 23:5-28 by virtue of an unauthorized discharge of deleterious materials.

N.J.S.A. 23:5-28 Draining deleterious substances into waters prohibited:

"No person shall put or place into, turn into, drain into or place where it can run, flow, wash or be emptied into, or find its way into any of the fresh or tidal waters within the jurisdiction of this State, any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind. . . A person violating this section shall be liable to a penalty of not more than \$6000.00 for each offense."

The statute permits the State to compromise and settle any claim for a penalty against Sherwin Williams.
This violation may be settled by payment of \$300.00.

You are reminded that the aforementioned statute has been interpreted to impose strict liability upon the responsible party.

Should you desire to settle this demand for a penalty, payment must be received not later than 10Oct86 in the form of a money order or certified check drawn to the order of the New Jersey Division of Fish, Game, & Wildlife. This is to be sent to Russell A. Cookingham, Director, CN-400, Trenton, N.J., 08625, and a copy of the cover letter is to be sent to me at the Bureau of Freshwater Fisheries, PO Box 394, Lebanon, N.J., 08833.

New Jersey Is An Equal Opportunity Employer

844180012

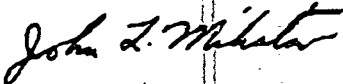
-2-

In the event payment is not made in the time specified, action will be taken to refer the matter to the Deputy Attorney General to initiate prosecution for the maximum penalty of \$6000.00.

This proposal of settlement is without prejudice as to the State's position in the event this settlement is unacceptable to you.

The issuance of this document does not preclude other State agencies from initiating further administrative or legal action, or from the assessing of penalties, with respect to this or other violations.

Very truly yours,



Lt. John L. Mihatov
Bureau of Law Enforcement

cc: R.A. Cookingham, Director
N. Magnus, DAG
Chief, Bu. of Law Enforcement
A. Bruce Pyle, Fisheries
Office of Regulatory Services

844180013

CHAPTER 173, Laws of 1971
Senate No. 928, Approved: 6/1/71

AN ACT concerning the prevention and abatement of pollution of the waters of this State resulting from the discharge therein of petroleum products, debris, and hazardous substances, and amending R.S. 23:5-28, 23:9-36, and 23:9-52.

23:5-28. No person shall put or place into, turn into, drain into, or place where it can run, flow, wash, or be emptied into, or where it can find its way into any of the fresh or tidal waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemical by any State, County, or Municipal government agency in any program of mosquito or other pest control or the use of chemical by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the State Department of Environmental Protection or discharge from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection, shall not constitute a violation of this section. In case of pollution of said waters by any substance injurious to fish, birds, or mammals, it shall not be necessary to show that the substances have actually caused the death of any of these organisms. A person violating this section shall be liable to a penalty of not more than \$6000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court, and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount is the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and said court may proceed in the action in a summary manner.



844180014

COATINGS

The Sherwin-Williams Company
Post Office Box 717
Brown Street and Lister Avenue
Newark, New Jersey 07101
Phone: (201) 344-7000

May 20, 1986

Allan T. Edwards
Acting Assistant Director
Enforcement Element
Division of Environmental Quality
CN-027
Trenton, N.J. 08625

Gentlemen:

Re: Notice of Civil Administrative Penalty Assessment

Enclosed is our check 034262 for \$800.00 in payment of a Civil
Administrative Penalty (ID#05449).

Should you have any questions, please feel free to contact me at your
earliest convenience.

Yours truly,

SHERWIN-WILLIAMS COMPANY

Wayne P. Murphy
Controller

for
A. Petee
Newark-Plant Manager

WPM:fl
encl.

5/16/86 - Gordon Kuntz, gave approval to
pay the penalty.

844180015

Voucher Check

Form 39290 Rev. 3/84

No 034262

DATE OF INVOICE	DESCRIPTION	AMOUNT	DEDUCTIONS		NET REMITTANCE
			FOR	AMOUNT	
5/20/86	Civil Administrative Penalty	800.00			800.00
PAID BY Newark	PAYMENTS AUTHORIZED BY WM	DATE 5/20/86	The Sherwin-Williams Company Consumer Division Brown Street & Lister Avenue Newark, NJ 07105		

IF SETTLEMENT IS NOT CORRECT RETURN THIS VOUCHER AND CHECK YOUR
ACCEPTANCE AND ENDORSEMENT OF OUR CHECK IS A RECEIPT IN FULL.

DETACH FROM CHECK BEFORE USING



The Sherwin-Williams Company
Consumer Division
Brown Street & Lister Avenue
Newark, NJ 07105

CHECK

No 034262

DATE	DOLLARS
May 20, 1986	*****800.00*****



Trust Company Bank

Atlanta, Georgia or
FNB Rome, Georgia

PAY
TO THE
ORDER OF

84-79
611

N.J. Dept. of Environmental
Protection

TWO SIGNATURES REQUIRED IF AMOUNT EXCEEDS \$1,000.00

The Sherwin-Williams Company

OPERATING
ACCOUNT

AGENT'S SIGNATURE

BY

AGENT'S SIGNATURE

034262 0611007901 8800501713

844180016

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
CN 027, TRENTON, NJ 08625



NEWARK OPERATIONS
Accounting _____ Pl. Prod. _____
Circulation _____

MAY 1 1986

IN THE MATTER OF
THE SHERWIN WILLIAMS CO.
BROWN STREET & LISTER AVENUE
NEWARK, N.J. 07105
LOG #A860478 MRO, CDS

ADMINISTRATIVE ORDER Engineering _____ Q.C. _____
Personnel _____ Varnish _____
NOTICE OF CIVIL ADMINISTRATIVE Arch. Service _____
PENALTY ASSESSMENT

This ORDER and NOTICE are issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (the "Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. (the "Act"), and duly delegated to the Assistant Director for Enforcement of the Division of Environmental Quality pursuant to N.J.S.A. 13:18-4.

FINDINGS

1. As the result of an investigation conducted on March 31, 1986, the Department has determined that at your facility located at Brown Street & Lister Avenue, City of Newark, Lot(s) 62 & 9, Block(s) 2437, County of Essex, State of New Jersey, (ID #05449) you constructed, installed, or altered the following equipment without obtaining the required Permit(s) to Construct, Install or Alter Control Apparatus or Equipment, in violation of N.J.A.C. 7:27-8.3(a):
4 latex paint storage tanks, located in building #18.

ORDER

2. NOW, THEREFORE, IT IS HEREBY ORDERED THAT on or before June 2, 1986, you cease operation of the equipment listed in Paragraph 1 above or obtain the required Permit(s) and Certificate(s) for such equipment. Such Permit(s) and Certificate(s) may be obtained by submitting application(s) VEM-003 and VEM-004 to the Bureau of Air Pollution Control for approval.
3. Based upon the above FINDINGS, and a review of the entire matter, the Department hereby assesses a Civil Administrative Penalty against you in the amount of \$800.00. Payment must be submitted to the Department within twenty (20) calendar days of receipt of this Order and Notice unless you request a hearing in accordance with the provisions of Paragraph 4 below. Payment must be made to the Department at the address listed in Paragraph B of Attachment I.

THE SHERWIN-WILLIAMS CO.

PAGE 2

LOG #A860478 MRO, CDS

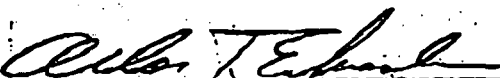
844180017

4. Pursuant to N.J.S.A. 26:2C-14.1 you are entitled to a hearing if aggrieved by this Order and Notice. Application for such a hearing must be made pursuant to N.J.A.C. 17:1-6.1(b) and must be received by the Department within twenty (20) calendar days from receipt of this Order and Notice. In applying for such hearing, you must furnish the Department with the information listed in Paragraph A of Attachment I. If no request for a hearing is received within twenty (20) calendar days, this Order and Notice shall become a final Order and the Penalty will then become due and payable. A hearing request does not stay the terms or effect of this Order.

Layne The provisions of this Order and Notice shall be binding on you, your principals, agents, employees, successors, assigns, tenants, and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.

6. No obligations imposed by this Order and Notice, with the exception of Paragraph 3, are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations imposed by this Order shall constitute continuing regulatory obligations imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety and welfare.
7. NOTICE IS GIVEN, that pursuant to N.J.S.A. 26:2C-19(b) and N.J.S.A. 26:2C-19(d), any person who violates the provisions of the Act, or any code, rule regulation or order promulgated or issued pursuant thereto, or who fails to pay a civil administrative penalty in full, shall be liable to a penalty of up to \$10,000 for the first offense, \$25,000 for the second offense, and \$50,000 for the third and each subsequent offense.

Dated: May 12, 1986



Allan T. Edwards
Acting Assistant Director
Enforcement Element



COATINGS

The Sherwin-Williams Company
Post Office Box 717
Brown Street and Lister Avenue
Newark, New Jersey 07101
Phone: (201) 344-7000

844180018

August 29, 1985

Mr. Allan T. Edwards
Bureau of Enforcement Services
State of New Jersey
Department of Environmental Protection
Division of Environmental Quality
John Fitch Plaza, CN027
Trenton, New Jersey 08625

Reference: New Jersey Administrative Code 7:27-8.3(a)
Notice of Prosecution #17904
Location: Brown Street & Lister Avenue, Newark,
Essex County, New Jersey

Dear Mr. Edwards:

In response to your letter of August 8, 1985 concerning the same reference, we hereby request the 50% rebate in the amount of \$200 to which we are entitled in accordance with N.J.A.C. 7:27A-1.5.

Thank you for bringing this matter to our attention.

Sincerely,
THE SHERWIN-WILLIAMS COMPANY

T.W. LaBaw
Plant Manager

TWL:fl



INTRA-COMPANY CORRESPONDENCE

RECEIVERS LOCATION AND DEPARTMENT

/11 Newark
TO (INDIVIDUAL'S NAME)

Ty Schultz
REFER TO LETTER OF

DATE March 19, 1981
FCG-24-81

SENDER'S LOCATION, DEPARTMENT, AND TELEPHONE NUMBER

11 Midland/Environmental Control/2248
SUBJECT

844180019

Enclosed is the Service of Process Transmittal Forms received from the C T Corporation System. The Sherwin-Williams' facility located in Newark, New Jersey has been charged with violating the New Jersey Permit System by operating a distillation unit without an Operating Permit.

In our conversation this afternoon, you indicated that you were planning on making a trip to the EPA office in Newark to obtain the necessary information for applying for the required permit. After your meeting with the EPA personnel, I would like to hear from you in order to evaluate our further action in this matter.

F.C. Gaugush
F.C. Gaugush

FCG:lg
Enclosure



844180020

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
1100 RAYMOND BOULEVARD, ROOM 510, NEWARK, N. J. 07102

The Sherwin-Williams Company
Corporation Trust Co.,
Registered Agent
28 West State Street
Trenton, New Jersey 08608

Dear Sir:

Attached herewith is a Notice of Prosecution which indicates that you have violated the New Jersey Administrative Code as determined by recent departmental investigations conducted on your premises. The maximum statutory penalty provided by law for each violation is a fine of up to \$2500.00 and an injunctive order of the Superior Court.

In accordance with N.J.A.C. 7:27A-1.5, you are entitled to a 50 % rebate of the included offer of settlement after a waiting period of 12 months provided there are no subsequent violations. Rebate requests are to be made by writing to this Department after the specified waiting period.

If settlement as contained in the attached notice is not received by the indicated date, the matter will be referred to the Office of the Attorney General with the recommendation that he seek the maximum penalties and court order as described above.

Should you have any questions regarding these matters, please feel free to contact the undersigned at Area Code 201-648-2075.

Very truly yours,

Thomas Leonard

Thomas Leonard, Supervisor
Newark Field Office
Bureau of Air Pollution Control

TL:djs

Attachments

844180021



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
JOHN FITCH PLAZA, P. O. BOX 2807, TRENTON, N. J. 08625

ORDER

To: The Sherwin-Williams Company
Corporation Trust Co., Registered
Agent
28 West State Street
Trenton, New Jersey 08608

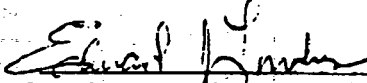
Re: N.J.A.C. 7:27- 8.3(b)
Plant Identification No. 05449
Violation Occurred on Premises
Known As:
Brown Street & Lister Avenue,
Lots 62 & 9, Block 2437,
Newark City, Essex County,
New Jersey

WHEREAS, the State Department of Environmental Protection has determined by investigation(s) or inspection(s) made pursuant to the Provisions of the New Jersey Air Pollution Control Act that on February 24, 1981 you did violate Title 7, Chapter 27, Subchapter 8, Section 8.3(b), of the New Jersey Administrative Code.

The investigation(s) discloses that an Interdyne hybrid distillation module was used or caused to be used on the premises identified above without first having obtained a "Certificate to Operate Control Apparatus or Equipment" from the Department.

NOW, THEREFORE, YOU ARE HEREBY ORDERED, to cease violation of said Subchapter on the premises owned, leased, operated or maintained by you on or before May 12, 1981.

Dated: March 12, 1981


Edward J. Londres, Assistant Director
Enforcement Branch

cc: Local District Newark City
Field Office Newark

CERTIFIED MAIL

VAP001
Jul. 76

REGISTERED AGENT

SERVICE OF PROCESS TRANSMITTAL FORM

844180022

CT SYSTEMCT Corporation System
The Corporation Trust Company

TO: The Sherwin-Williams Company
Att: Robert Bielek, Legal Dept.
Midland Bldg.
Cleveland, Ohio 44115
 (Authorized Recipient)

TO: CT CORPORATION SYSTEM
 (CT Office)
CLEVELAND, OHIO
 (City) (State)
 FROM: CT CORPORATION SYSTEM
 (Originating Agent)
 Per MARYELLA RIVERA (gb)
Trenton, New Jersey
 (City) (State)
 DATE: 3/13/81 VIA: First Class Mail

VIA: ☒ Certified First Class Mail
☐ Messenger

RE: **PROCESS SERVED IN** NEW JERSEY
 (Jurisdiction)

FOR THE SHERWIN-WILLIAMS COMPANY OHIO
 (Name of Company) (Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

- TITLE OF ACTION: STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION
 TO: THE SHERWIN-WILLIAMS COMPANY
- DOCUMENT(S) SERVED: ☐ Summons, Complaint
☒ Order
- COURT: ☐ Superior Court of New Jersey, Division _____ County _____
- NATURE OF ACTION: Investigation on 2/24/81 on premises known as Brown St * Lister Ave., Newark NJ disclosed that an Interdyne Hybrid distillati module was caused to be used on premises without a Permit.
- ☐ PROCESS SERVED ON: THE CORPORATION TRUST COMPANY in New Jersey
☒ PROCESS RECEIVED BY: THE CORPORATION TRUST COMPANY in New Jersey, by mail
 FROM: Dept. of Env. Prot. 3/12/81
 Envelope Post Marked _____ enclosed.
- DATE AND HOUR OF SERVICE OR RECEIPT: March 13, 1981
- APPEARANCE OR ANSWER DUE: ☐ Within 20 days of service, exclusive of day of service.
☒ Ordered to cease violation on or before 5/12/81
- PLAINTIFF'S ATTORNEY BY: Edward J. Londres, Asst Dir.
Dept. of Env. Prot.
John Fitch Plaza, P.O. Box 2807
Trenton, N.J. 08625
- REMARKS:
☐ This confirms our telephone call to your office.
☐ Above telephoned to C.T. office and is sent to you per their instructions.

RECEIVED RECEIVED AND FORWARDED ON 3/16/81 (Date)

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING
 THE CARBON COPY AND RETURNING IT TO

BY: CT CORPORATION SYSTEM
 Per Mrs. Joyce Bonahue
1578 Union Commerce Bldg.
Cleveland, Ohio 44115 dr
 (Address)

FC7

MAR 19 1981

CT284A-1.5M-3/81

CT SYSTEMCT Corporation System
The Corporation Trust Company19904
SERVICE OF PROCESS TRANSMITTAL FORM

844180023

TO: The Sherwin-Williams Company
Att: Robert Bielek, Legal Department
Midland Building
Cleveland, Ohio 44115
 (Authorized Recipient)

TO: CT CORPORATION SYSTEM
 (City) CLEVELAND, OHIO (State)
 FROM: CT CORPORATION SYSTEM
 (City) Trenton, New Jersey (State)
 Per: MARIELLA RIVERA (gb)

VIA: ☒ Certified First Class Mail
☐ Messenger

DATE: 3/13/81 VIA: First Class Mail

S-W LEGAL

RECEIVED
 RE: PROCESS SERVED IN

NEW JERSEY
 (Jurisdiction)

FOR THE SHERWIN-WILLIAMS COMPANY
 (Name of Company)

OHIO
 (Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:
 STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

1. TITLE OF ACTION: THE SHERWIN-WILLIAMS COMPANY
 TO:

2. DOCUMENT(S) SERVED: ☐ Summons, Complaint
☒ Notice of Prosecution & Enclosures

3. COURT: ☐ Superior Court of New Jersey, Division _____ County _____

4. NATURE OF ACTION: Investigations on 2/24/81 on premises known as Brown St & Lister Ave Newark NJ disclosed that an Interdyne hybrid distillation module was constructed without a Permit.

5. ☐ PROCESS SERVED ON: THE CORPORATION TRUST COMPANY in New Jersey
☒ PROCESS RECEIVED BY: THE CORPORATION TRUST COMPANY in New Jersey, by mail
 FROM: Dept. of Env. Prot. 3/12/81
 Envelope Post Marked _____ enclosed.

6. DATE AND HOUR OF SERVICE OR RECEIPT: March 13, 1981

7. APPEARANCE OR ANSWER DUE: ☐ Within 20 days of service, exclusive of day of service
Prosecution being withheld until 3/27/81 to allow for settlement of \$400.00

8. ~~UNANSWERED COMPLAINT BY:~~ Edward J. Londres, Asst. Dir.
Dept. of Env. Prot.
John Fitch Plaza, P.O. Box 2807
Trenton, N.J. 08625

9. REMARKS:

☐ This confirms our telephone call to your office.
☐ Above telephoned to CT

office and is sent to you per their instructions.

RECEIVED AND FORWARDED ON 3/16/81 (Date)

BY: CT CORPORATION SYSTEM

Per: Mrs. Joyce Donahue

1578 Union Commerce Bldg.
 (Address)
Cleveland, Ohio 44115 dr

CT 284A-1.5M-1/81

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING
 THE CARBON COPY AND RETURNING IT TO →

844180024



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
JOHN FITCH PLAZA, CN027, TRENTON, N.J. 08625

August 8, 1985

The Sherwin Williams Company
P.O. Box 717
Newark, N.J. 07101

Reference: New Jersey Administrative Code 7:27-8.3(a)
Notice of Prosecution #17904
Location: Brown Street & Lister Avenue, Newark, Essex County,
New Jersey

Dear Sir:

The referenced Notice of Prosecution (copy attached) and a letter outlining your rebate eligibility were sent to you on March 12, 1981.

To date we have not received your rebate request. In accordance with N.J.A.C. 7:27A-1.5 you are entitled to a 50% rebate of the \$400 offer of settlement which amounts to \$200.

Rebate request must be submitted in writing within 30 days of the date of this letter. If request is not made within this period your right to rebate will be forfeited.

Should you have any questions regarding this matter, please feel free to contact Mr. Marvin C. Makler at (609) 292-1708.

Sincerely,

Allan T. Edwards, Chief
Bureau of Enforcement Services

MCN/sah

c: Marvin C. Makler
Metropolitan Regional Office

CERTIFIED MAIL

New Jersey Is An Equal Opportunity Employer

17904
844180025

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
JOHN FITCH PLAZA, P. O. BOX 2807, TRENTON, N. J. 08625

NOTICE OF PROSECUTION

To: The Sherwin-Williams Company
Corporation Trust Co., Registered
Agent
28 West State Street
Trenton, New Jersey 08608

Re: N.J.A.C. 7:27- 8.3(a)
ORDER, Dated: September 25, 1978
Plant Identification No. 05449
Violation Occurred on Premises
Known As:
Brown Street & Lister Avenue,
Lots 62 & 9, Block 2437,
Newark City, Essex County,
New Jersey

5710 11200100
WHEREAS, the State Department of Environmental Protection has determined by investigation(s) or inspection(s) made pursuant to the Provisions of the New Jersey Air Pollution Control Act that on February 21, 1981 you did violate Title 7, Chapter 27, Subchapter 3, Section 8.3(a) of the New Jersey Administrative Code.

The investigation(s) discloses that an Interdyne hybrid distillation module was constructed, installed or altered on the premises identified above without first having obtained a "Permit to Construct, Install or Alter Control Apparatus or Equipment" from the Department.

Prosecution is being withheld until March 27, 1981 to allow for settlement of a claim for a penalty against you in the amount of \$ 400.00. Should you desire to settle your claim, payment must be made on or before this date by money order or check drawn to the order of the New Jersey State Department of Environmental Protection. In the event payment is not made within the time specified, this case will be referred to the Office of the Attorney General for prosecution.

Dated: March 12, 1981

Edward J. Londres, Assistant Director
Enforcement Branch

cc: Local District
Field Office Newark City
Newark

CERTIFIED MAIL

VAP002
Jul. 78

844180026



DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
JOHN FITCH PLAZA, CN 927, TRENTON, N.J. 08625



NOTICE OF PROSECUTION

TO: The Sherwin-Williams Company
Corporation Trust Co.,
Registered Agent
28 West State Street
Trenton, New Jersey 08608
and
The Sherwin-Williams Company
Brown Street & Lister Avenue
Newark, New Jersey 07105
Dee E. Edwards, Plant Manager

Identification No. 05449
Contact/Phone 201-344-7000
Violation Occurred on Premises Known As:

Brown Street & Lister Avenue, Newark,
Lots 62 & 9, Block 2437, Essex County,
New Jersey

DATE OF VIOLATION
APPROXIMATE DATE OF VIOLATION
DATE OF INSPECTION

DATE OF VIOLATION

DATE OF VIOLATION
DATE OF VIOLATION
DATE OF VIOLATION

The New Jersey Department of Environmental Protection has determined by investigation made pursuant to the provisions of N.J.S.A. 26:2C-1 that on April 13, 1983 you did violate the New Jersey Administrative Code, Title 7, Chapter 27, Air Pollution Control Subchapter 8, Section 8.3(a)&(b).

The investigation disclosed (a) that two titanium dioxide slurry storage tanks were constructed, installed or altered on the premises identified above without first having obtained a "Permit to Construct, Install or Alter Control Apparatus or Equipment" from the Department.

and

(b) that two titanium dioxide slurry storage tanks were used or caused to be used on the premises identified above without first having obtained a "Certificate to Operate Control Apparatus or Equipment" from the Department.

YOU ARE TO CEASE VIOLATION of said Subchapter and Section(s) on the premises owned, leased, operated or maintained by you IMMEDIATELY.

PENALTY ASSESSED: \$ 400.00

SETTLEMENT: The above penalty must be paid on or before May 31, 1983. To settle this claim, make payment by money order or check drawn to the order of the New Jersey Department of Environmental Protection.

If you fail to settle this claim by the indicated date, the matter will be referred to the Office of the Attorney General with the recommendation to seek injunctive relief and maximum penalties for each violation as provided by law.

REBATE: ☐ Not applicable

☒ You are entitled to a 75 % rebate of the above offer of settlement after a waiting period of 6 months provided there are no subsequent violations of this Subchapter and Section(s).
Rebate requests must be made in writing to the Department after specified waiting period.

Should you have any questions, contact David C. Vols, Supv.
Administrative Actions
609-292-1708

LOG # 20696

Dated: May 16, 1983

Thomas A. Pluta
Thomas A. Pluta, Assistant Director
Enforcement Branch

PROGRAM: Newark

CERTIFIED MAIL

102-4777-752 - N/C A)

844180027

Voucher Check

FORM 39290 REV 7/82

Nº 27037

DATE OF INVOICE	DESCRIPTION	AMOUNT	DEDUCTIONS		NET REMITTANCE
			FOR	AMOUNT	
May 16, 1983	Penalty payment ID NO. 05449 Log #20696	\$400.00			\$400.00
ISSUED BY Newark	PAYMENTS AUTHORIZED BY AT	DATE 5/26/83	The Sherwin-Williams Company Consumer Division		

IF SETTLEMENT IS NOT CORRECT RETURN THIS VOUCHER AND CHECK YOUR
ACCEPTANCE AND ENDORSEMENT OF OUR CHECK IS A RECEIPT IN FULL

The Sherwin-Williams Company
Consumer Division
Brown Street & Lister Ave.
Newark, NJ 07105

DETACH FROM CHECK BEFORE USING



The Sherwin-Williams Company
Consumer Division
Brown Street & Lister Ave.
Newark, NJ 07105

CHECK

№ 27037

DATE May 26, 1983	DOLLARS **\$400.00*****
----------------------	----------------------------



Trust Company Bank

Atlanta, Georgia or
FNB Rome, Georgia

PAY
TO THE
ORDER OF

New Jersey Dept of Environmental
Protection
John Fitch Plaza CN 027
L Trenton, N.J. 08625

54.79
611

TWO SIGNATURES REQUIRED IF AMOUNT EXCEEDS \$1,000.00

The Sherwin-Williams Company

**OPERATING
ACCOUNT**

BY

AGENT'S SIGNATURE

AGENCY SIGNATURE

#022037# 1:06 1100790: 05 01 71 8#

DISTRIBUTION								DESCRIPTION
Main Account	Prime Account	Sub Account	Cost Center	Project Code	Charge Amount	Credit Amount		
27	A499	998	NB 33					

844180028



COATINGS

The Sherwin-Williams Company
Post Office Box 717
Brown Street and Lister Avenue
Newark, New Jersey 07101
Phone: (201) 344-7000

May 27, 1983

Department of Environmental Protection
Division of Environmental Quality
John Fitch Plaza, CN 027
Trenton, New Jersey 08625

Gentlemen:

Identification No. 05449

Enclosed is a check for \$400.00 in payment of violations quoted
in your attached "Notice of Prosecution" form.

If you should have any questions, please feel free to contact me
at your earliest convenience.

Regards,

A handwritten signature in cursive script, appearing to read "Dee". The signature is written in dark ink and is positioned above the printed name of the signatory.

Dee E. Edwards
Plant Manager

DEE:fl

encl.

cc: F. Gaugush

FLO

Do you need this
for the new forms?



844180029

COATINGS

The Sherwin-Williams Company
Post Office Box 717
Brown Street and Lister Avenue
Newark, New Jersey 07101
Phone: (201) 344-7000

November 8, 1983

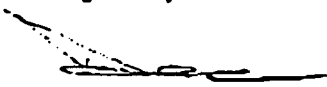
Mr. John Barry
Bureau of Compliance and Enforcement
120 Route 156
Yardville, New Jersey 08620

Dear Mr. Barry:

In compliance with your telephone conversation with Fran Gaugush of our Cleveland Technical Services, we are enclosing our check in the amount of \$250 as full settlement on the Notice of Violation and Penalty Settlement Offer attached.

Should you have any questions, please feel free to contact me at any time.

Regards,


Dee E. Edwards
Plant Manager

DEE:fl
encl.
cc: F. Gaugush
M. Gross

oucher Check

844180030

DATE OF INVOICE	DESCRIPTION	AMOUNT	DEDUCTIONS		NET REMITTANCE
			FOR	AMOUNT	
11/8/83	Notice of Violation N.J.S.A. 13:1E-9D)	250.00			250.00
PAID BY Newark	PAYMENTS AUTHORIZED BY AI	DATE 11/8/83			

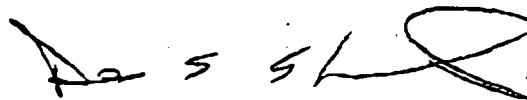
PAYMENT APPROVED BY

MANAGER

CHECK NO. 28582

Nov. 8, 1983 *****250.00*****

Dept. of Environmental Protection



ACCOUNTING COPY

DISTRIBUTION							DESCRIPTION	
Prime Account	Sub Account	Cost Center	Project Code	Charge Amount	Credit Amount			
16 402	20 998	23 N035	27	44 250 00	54 44	54 61	79	80

844180031

January 3, 1979

State of New Jersey
Department of Environmental Protection
Division of Environmental Quality
John Fitch Plaza
P. O. Box 2807
Trenton, New Jersey 08625

Attention: Mr. Edward J. Londres

Dear Mr. Londres:

The attached check 11820 for \$100 is to cover the penalty served by the Notice of Prosecution dated December 11, 1978.

Confirming my conversation with Mr. M. Osvai on December 29, 1978, Sherwin-Williams Headquarters was not aware of the Notice of Prosecution until December 27, 1978. As I stated to Mr. Osvai, we intended to pay the penalty and that this check would be forthcoming immediately.

We anticipated that my call to you would relieve the Sherwin-Williams Company from any delinquencies on meeting of the date specified.

We will proceed immediately to complete our application for permit to construct, install, and operate the Interdyne Hybrid Distillation Module.

Yours truly,

THE SHERWIN-WILLIAMS COMPANY



Robert A. Wavering
Plant Manager

RAW:fl
cc: F. Gaugush

844180032

VOUCHER-CHECK

N^o 11820

DATE OF INVOICE	DESCRIPTION	AMOUNT	DEDUCTIONS		NET REMITTANCE
			FOR	AMOUNT	
12/31/78	Permit required for Interdyne Still Violation NJAC 7:27-8.3(a)	100.00			100.00

ISSUED BY Newark Factory PAYMENT AUTHORIZED BY WR DATE January 3, 1979IF SETTLEMENT IS NOT CORRECT RETURN THIS VOUCHER AND CHECK YOUR
ACCEPTANCE AND ENDORSEMENT OF OUR CHECK IS A RECEIPT IN FULLThe Sherwin-Williams Company
BROWN ST. AND LISTER AVE.
NEWARK, NEW JERSEY

FORM 38290

DETACH FROM CHECK BEFORE USING



The Sherwin-Williams Company

CHECK

N^o 11820

NEWARK, NEW JERSEY

DATE	DOLLARS
Jan. 3, 1979	*****100.00*****

FIDELITY UNION TRUST CO.
EQUITABLE OFFICE
NEWARK, NEW JERSEYPAY
TO THE
ORDER OFN. J. State Dept of
Environmental ProtectionNOT VALID UNTIL COUNTERSIGNED BY
TWO SIGNATURES REQUIRED IF AMOUNT EXCEEDS \$1,000.00FACTORY
ACCOUNT

The Sherwin-Williams Company

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

#0118201 10212000091 3112391 511

844180033



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENFORCEMENT FIELD OPERATIONS
CN 422 TRENTON, NJ 08625-0422

Christine Todd Whitman
Governor

Robert C. Shinn Jr.
Commissioner

IN THE MATTER OF
SHERWIN - WILLIAMS COMPANY
60 LISTER AVENUE
NEWARK, NJ 07105
LOG #A950101 MRA

: ADMINISTRATIVE ORDER AND
:
: NOTICE OF CIVIL ADMINISTRATIVE
:
: PENALTY ASSESSMENT
:

This ORDER and NOTICE are issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (the "Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. (the "Act"), and duly delegated to the Assistant Director, Air and Environmental Quality Enforcement, the Division of Enforcement Field Operations pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. As the result of an investigation conducted on August 29, 1994, the Department has determined that at your facility located at 60 Lister Avenue, City of Newark, Lot(s) 1, Block(s) 2438, County of Essex, State of New Jersey, (ID #05449), you used the equipment and/or control apparatus associated with Permit(s) to Construct, Install or Alter Control Apparatus or Equipment ("Permit") and Certificate(s) to Operate Control Apparatus or Equipment ("Certificate") without fulfilling all conditions and provisions of the Permit(s) and Certificate(s) #111,900, in violation of N.J.A.C. 7:27-8.3(e)1 by as follows:

Product was observed being manufactured in vessel, HSD14 while dust collector DC3 was operating with a pressure drop of 2.4 inches W.C. Condition II.2. requires an operating range of 2.8 - 5.2 inches W.C. In addition you failed to report this incident of non-compliance to the Department within three working days as required by condition V.A. and you failed to submit a 1993 Annual Emissions Summary, for the source operation, to the Department as required by condition V.C.

ORDER

2. NOW, THEREFORE, IT IS HEREBY ORDERED THAT YOU IMMEDIATELY cease operation of the equipment listed in Paragraph 1 above or operate said equipment in accordance with the above Permit(s) and Certificate(s).

PENALTY

3. Based upon the above FINDINGS, and a review of the entire matter, the Department hereby assesses a Civil Administrative Penalty against you in the amount of \$ 800.00. Payment must be submitted to the Department within twenty (20) calendar days of receipt of this Order and Notice unless you request a hearing in accordance with the provisions of Paragraph 4 below. Payment must be made to the Department at the address stated on the enclosed "Enforcement Invoice."

SHERWIN - WILLIAMS COMPANY
A950101
PAGE 2

844180034

GENERAL PROVISIONS

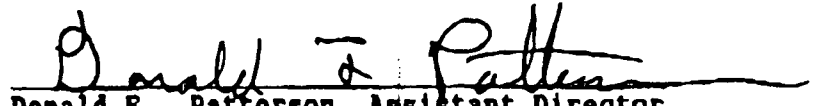
4. Pursuant to N.J.S.A. 26:2C-14.1 you are entitled to an adjudicatory hearing if aggrieved by this Order and Notice. Written application for such a hearing must be received by the Department within twenty (20) calendar days from receipt of this Order and Notice. In applying for such hearing, you must furnish the Department with the information listed in Section III of Attachment 1E. If no request for a hearing is received within twenty (20) calendar days, this Notice shall become a final Order and the Penalty will then become due and payable. A hearing request does not stay the terms or effect of this Order.
5. The provisions of this Order and Notice shall be binding on you, your principals, agents, employees, successors, assigns, tenants and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.
6. No obligations imposed by this Order and Notice, with the exception of Paragraph 3, are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations imposed by this Order shall constitute continuing regulatory obligations imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety and welfare.
7. Pursuant to N.J.S.A. 26:2C-19 and N.J.A.C. 7:27A-3.12, the Department may, in addition to any civil administrative penalty assessed, amend such penalty assessment to include a civil administrative penalty for the economic benefit (in dollars) which a violator has realized as a result of not complying, or by delaying compliance with this Act.
8. Pursuant to N.J.S.A. 26:2C-19(b) and N.J.S.A. 26:2C-19(d), any person who violates the provisions of the Act, or any code, rule regulation or order promulgated or issued pursuant thereto, or who fails to pay a civil administrative penalty in full, shall be liable to a penalty of not more than \$10,000 for the first offense, not more than \$25,000 for the second offense, and not more than \$50,000 for the third and each subsequent offense.
9. Pursuant to N.J.S.A. 26:2C-19(f)1 any person who purposely or knowingly violates the provisions of the Act, or any code, rule, regulation, administrative order or court order promulgated or issued pursuant thereto, is guilty of a crime of the third degree.

SHERWIN - WILLIAMS COMPANY
A950101
PAGE 3

844180035

10. Pursuant to N.J.S.A 26:2C-19(f)2 any person who recklessly violates the provisions of the Act, or any code, rule, regulation, administrative order or court order promulgated or issued pursuant thereto, is guilty of a crime of the fourth degree.

Dated: February 9, 1995


Donald F. Patterson, Assistant Director
Air & Environmental Quality Enforcement

CERTIFIED MAIL

Let's protect our earth



844180036

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF HAZARDOUS WASTE MANAGEMENT

John J. Trella, Ph.D., Acting Director

2 Babcock Place

West Orange, N.J. 07052

201-669-3960

HM00109

1000

Ms. Susan Free
The Sherwin Williams Company
60 Lister Avenue
Newark, New Jersey 07105

Subject: Notice of Civil Administrative Penalty Assessment
Against The Sherwin Williams Company, Newark, New Jersey

Dear Ms. Free:

There is enclosed for service upon you a Notice of Civil Administrative Penalty Assessment issued by the New Jersey Department of Environmental Protection pursuant to the provisions of the Solid Waste Management Act.

The Department is available to meet with the principals of the case to discuss the enclosed enforcement document. Should you desire such a meeting, please contact Mr. Arnold Schiff within 20 calendar days of receipt of this letter. This does not affect the time frame within which you may request an Administrative Hearing, under the Right to a Hearing provision of the enclosed, nor does this affect the time frame in which you must verify compliance under the Verification of Compliance section of the enclosed.

Should you have any questions concerning the above, please contact Mr. Schiff at (201)669-3979.

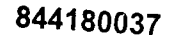
Sincerely,

Karl J. Delaney
Assistant Director
Hazardous Waste Enforcement

Enclosures

CC: Health Department
Mayor's Office
Bureau of Compliance and Technical Services
Metro Region Field Office

New Jersey is an Equal Opportunity Employer



11th Oct 2023

1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630

NOTICE OF CIVIL
ADMINISTRATIVE PENALTY
ASSESSMENT

This Notice of Civil Administrative Penalty Assessment is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "NJDEP" or the "Department") by N.J.S.A. 13:1D-1 et seq. and the Solid Waste Management Act, N.J.S.A.13:1E-1, et seq., and duly delegated to the Assistant Director for Enforcement of the Division of Hazardous Waste Management pursuant to N.J.S.A. 13:1B-4.

1. The Sherwin Williams Company, (hereinafter "Sherwin Williams"), is a generator of hazardous waste as defined in N.J.A.C. 7:26-1.4, with an USEPA ID. No. NJD002451870, located at 60 Lister Avenue, Lot 3, Block 2438, in the City of Newark, County of Essex, State of New Jersey.
2. On May 11, 1988, a Departmental representative conducted an inspection at and found the facility to be in violation of the Solid Waste Management Acts rules and regulations by failing to:
 - a. Provide a manifest before transporting the waste off-site, in violation of N.J.A.C. 7:26-7.4(a)3.
 3. Based on the facts set forth in these FINDINGS, the Department has determined that Sherwin Williams has violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7.4(a)3.
 4. On May 11, 1988, the Department found Sherwin Williams to be in compliance with all of the above violations cited above.

844180038

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

5. Pursuant to N.J.S.A. 13:1E-9e and based upon the above FINDINGS, the Department has determined that a civil administrative penalty should be assessed against Sherwin Williams in the amount of \$1000.00.
6. Payment of the penalty is due when a final order is issued by the Commissioner subsequent to a hearing, if any, or when this Notice of Civil Administrative Penalty Assessment becomes a final order (see following paragraph). Payment shall be made by certified check payable to "Treasurer, State of New Jersey," and shall be submitted to:

New Jersey Department of Environmental Protection
Division of Financial Management, Planning and General Services
Bureau of Revenue
CN 402
Trenton, NJ 08625
7. If no request for a hearing is received within twenty calendar days from receipt of this Notice of Civil Administrative Penalty Assessment, it shall become a final Notice upon the twenty first calendar day following its receipt and the penalty shall be due and payable.

NOTICE OF RIGHT TO A HEARING

8. Pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 13:1E-9, Sherwin Williams is entitled to an administrative hearing. Any hearing request shall be delivered to the address referenced below within twenty (20) calendar days from receipt of this Notice of Civil Administrative Penalty Assessment.

New Jersey Department of Environmental Protection
Division of Hazardous Waste Management-Enforcement Element
CN 028
Trenton, NJ 08625
Attention: Assistant Director for Enforcement
9. Sherwin Williams shall, in its request for a hearing, furnish NJDEP with the following:
 - a. A statement of the legal authority and jurisdiction under which the hearing or action to be taken is to be held;
 - b. A reference to the particular sections of the statutes and rules involved;
 - c. A short and plain statement of the matters of fact and law asserted;
and
 - d. The provisions of this Notice of Civil Administrative Penalty

MAR-02-'95 THU 10:38 ID: SHERWIN WILLIAMS NUK TEL NO: 201 491 9435

8862 P37

844180039

THE SHERWIN-WILLIAMS COMPANY - Consumer Division
P.O. BOX 6086
Cleveland, Ohio 44101

CHECK NO. 019358

VENDOR						
OUR REF. NO.	YOUR INV. NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
HM 00189		10/13/88	1,000.00	1,000.00	-0-	1,000.00

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

SHERWIN WILLIAMS

The Sherwin-Williams Company
Consumer Division
P.O. BOX 6086
Cleveland, Ohio 44101

64-79
611

CHECK NO. 019358 CHECK DATE 10/20/88 VENDOR NO. -0-

CHECK AMOUNT
*****1,000.00*****

The Sherwin-Williams Company
Wayne P. Murphy
Regatta
TWO SIGNATURES REQUIRED IF AMOUNT EXCEEDS \$1,000.00

PAY TO THE ORDER OF
Treasurer, State of New Jersey

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈019358⑈ ⑆061100790⑆ 8800501762⑈
TRUST COMPANY BANK-ATLANTA GEORGIA OR TRUST COMPANY BANK OF NORTHEAST GEORGIA, N.A.

844180040

Assessment to which objects, the reasons for such objections, and any alternative provisions proposed.

GENERAL PROVISIONS

10. This Notice of Civil Administrative Penalty Assessment is binding on Sherwin Williams, its principals, directors, officers, agents, successors, assigns, and any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.

11. Notice is given that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial. By issuing this Notice of Civil Administrative Penalty Assessment the Department does not waive its rights to initiate additional enforcement actions.

12. No obligations imposed by this Notice of Civil Administrative Penalty Assessment (with the exception of paragraph 5 above) are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and environment.

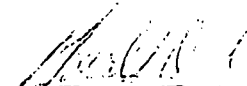
13. Notice is given that pursuant to N.J.S.A. 13:1e-9e, the Department is authorized to assess a civil administrative penalty of not more than \$25,000.00 for each violation and additional penalties of not more than \$2,500.00 for each day during which the violations continues after receipt of an administrative order from the Department.

14. Notice is further given that pursuant to N.J.S.A. 13:1E-9f, any person who violate N.J.S.A. 13:1E-1 et seq., or any code, rule or regulation promulgated thereunder shall be liable to a penalty of not more than \$50,000.00 per day of such violation, and each day's continuance of the violation shall constitute a separate violation.

15. Notice is further given that pursuant to N.J.S.A. 13:1E-9f, any person who violates an administrative order issued pursuant to N.J.S.A. 13:1E-9d, or a court order issued pursuant to N.J.S.A. 13:1E-9d, or who fails to pay a civil administrative penalty in full after it is due shall be subject to a civil penalty not to exceed \$100,000.00 per day of such violation and each day's continuance of the violation shall constitute a separate violation.

16. Except as provided above in the Notice of a Right to a Hearing Section, this Notice of Civil Administrative Penalty Assessment shall be effective upon receipt.

Date: _____


Karl J. Delaney
Assistant Director
Hazardous Waste Enforcement

KJD:MPK:AS:JC

844180041

UNIFIED MAIL # P 339 498 330

DEP-062 A

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENFORCEMENT ACTION TRANSMITTAL

OFFICE USE ONLY

Document # _____

Date Rec'd _____

Amt. _____

Fill in this form (white and yellow copies) with payment. Keep pink copy for your records.

Check payable to. Treasurer, State of New Jersey

to: NJDEP

Bureau of Collections, Licensing & Management Services ~~ENRGS~~ Revenue

CN 402

Trenton, NJ 08625

SHERWIN WILLIAMS COMPANY

PAYMENT NO. 1 of 1

GRAM I.D. NO. HM 00189

DATE DUE

SION Hazardous Waste Management AMT. DUE \$1,000

U.S. ENVIRONMENTAL PROTECTION AGENCY
NOTIFICATION OF HAZARDOUS WASTE ACTIVITY

INSTRUCTIONS: If you received a preprinted label, affix it in the space at left. If any of the information on the label is incorrect, draw a line through it and supply the correct information in the appropriate section below. If the label is complete and correct, leave Items I, II, and III below blank. If you did not receive a preprinted label, complete all items. "Installation" means a single site where hazardous waste is generated, treated, stored and/or disposed of, or a transporter's principal place of business. Please refer to the INSTRUCTIONS FOR FILING NOTIFICATION before completing this form. The information requested herein is required by law (Section 3010 of the Resource Conservation and Recovery Act).

INSTALLATION'S EPA I.D. NO.

I. NAME OF INSTALLATION

II. INSTALLATION MAILING ADDRESS

III. LOCATION OF INSTALLATION

PLEASE PLACE LABEL IN THIS SPACE

FOR OFFICIAL USE ONLY

COMMENTS

INSTALLATION'S EPA I.D. NUMBER

APPROVED

DATE RECEIVED
(yr., mo., & day)

F N 1 7 0 0 2 4 3 1 8 7 0 3 1

8 0 0 8 1 8

I. NAME OF INSTALLATION

S H E R W I N W I L L I A M S C O M P A N Y

II. INSTALLATION MAILING ADDRESS

STREET OR P.O. BOX

3 P O B O X 7 1 7

CITY OR TOWN

4 N E W A R K

ST.

ZIP CODE

N J 0 7 1 0 1

III. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER

5 B R O W N S T R E E T a n d I I S T E R A V E N U E

CITY OR TOWN

6 N E W A R K

ST.

ZIP CODE

N J 0 7 1 0 1

IV. INSTALLATION CONTACT

NAME AND TITLE (last, first, & job title)

PHONE NO. (area code & no.)

2 B B A R R I N G E R P L A N T M A N A G E R

2 0 1 - 3 4 4 - 7 0 0 0

V. OWNERSHIP

A. NAME OF INSTALLATION'S LEGAL OWNER

8 S H E R W I N W I L L I A M S C O M P A N Y

B. TYPE OF OWNERSHIP
(enter the appropriate letter into box)F - FEDERAL
M - NON-FEDERAL

M

VI. TYPE OF HAZARDOUS WASTE ACTIVITY (enter "X" in the appropriate box(es))

☒ A. GENERATION☐ B. TRANSPORTATION (complete Item VII)☒ C. TREAT/STORE/DISPOSE☐ D. UNDERGROUND INJECTION

VII. MODE OF TRANSPORTATION (transporters only - enter "X" in the appropriate box(es))

☐ A. AIR☐ B. RAIL☐ C. HIGHWAY☐ D. WATER☐ E. OTHER (specify):

VIII. FIRST OR SUBSEQUENT NOTIFICATION

Mark "X" in the appropriate box to indicate whether this is your installation's first notification of hazardous waste activity or a subsequent notification. If this is not your first notification, enter your installation's EPA I.D. Number in the space provided below.

☒ A. FIRST NOTIFICATION☐ B. SUBSEQUENT NOTIFICATION (complete Item C)

C. INSTALLATION'S EPA I.D. NO.

IX. DESCRIPTION OF HAZARDOUS WASTES

Please go to the reverse of this form and provide the requested information.

844180042

IX. DESCRIPTION OF HAZARDOUS WASTES (continued from front)

A. HAZARDOUS WASTES FROM NON-SPECIFIC SOURCES. Enter the four-digit number from 40 CFR Part 261.31 for each listed hazardous waste from non-specific sources your installation handles. Use additional sheets if necessary.

1 F 003	2 F 005	3 F 017	4 F 018	5	6
7	8	9	10	11	12

B. HAZARDOUS WASTES FROM SPECIFIC SOURCES. Enter the four-digit number from 40 CFR Part 261.32 for each listed hazardous waste from specific industrial sources your installation handles. Use additional sheets if necessary.

13 K 078	14 K 079	15 K 080	16 K 081	17 K 082	18
19	20	21	22	23	24
25	26	27	28	29	30

C. COMMERCIAL CHEMICAL PRODUCT HAZARDOUS WASTES. Enter the four-digit number from 40 CFR Part 261.33 for each chemical substance your installation handles which may be a hazardous waste. Use additional sheets if necessary.

31 U 002	32 U 013	33 U 019	34 U 031	35 U 051	36 U 122
37 U 140	38 U 147	39 U 154	40 U 159	41 U 160	42 U 190
43 U 197	44 U 220	45 U 226	46 U 239	47	48

D. LISTED INFECTIOUS WASTES. Enter the four-digit number from 40 CFR Part 261.34 for each listed hazardous waste from hospitals, veterinary hospitals, medical and research laboratories your installation handles. Use additional sheets if necessary.

49	50	51	52	53	54
----	----	----	----	----	----

E. CHARACTERISTICS OF NON-LISTED HAZARDOUS WASTES. Mark "X" in the boxes corresponding to the characteristics of non-listed hazardous wastes your installation handles. (See 40 CFR Parts 261.21 - 261.24.)

☒ 1. IGNITABLE
(D001)

☒ 2. CORROSIVE
(D002)

☒ 3. REACTIVE
(D003)

☒ 4. TOXIC
(D004)

X. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

SIGNATURE

NAME & OFFICIAL TITLE (type or print)

DATE SIGNED

Bobby D. Barringer

Bobby D. Barringer, Plant Manager 8-8-80

R E G U L A T I O N S

OF

THE SHERWIN-WILLIAMS COMPANY

(As Amended April 27, 1988)

ARTICLE I

SHAREHOLDERS' MEETINGS

Section 1. Annual Meeting

The annual meeting of shareholders shall be held at 10:30 o'clock A.M., or at such other time as may be designated in the notice of said meeting, on the fourth Wednesday in April in each year, if not a legal holiday, and if a legal holiday, then on the next day not a legal holiday, for the election of Directors and the consideration of reports to be laid before such meeting. Upon due notice, there may also be considered and acted upon at such annual meeting any matter which could properly be considered and acted upon at a special meeting, in which case and for which purpose the annual meeting shall also be considered as, and shall be, a special meeting. When the annual meeting is not held or Directors are not elected thereat, they may be elected at a special meeting called for that purpose.

Section 2. Special Meetings

Special meetings of shareholders may be called by the Chairman of the Board or the President or a Vice President, or by the Directors by action of a meeting, or by a majority of the Directors acting without a meeting, or by the person or persons who hold at last fifty percent of all shares outstanding and entitled to be voted on any proposal to be submitted at said meeting.

Upon request in writing delivered either in person or by registered mail to the President or Secretary by any person or persons entitled to call a meeting of shareholders, such officer shall forthwith cause to be given, to the shareholders entitled thereto, notice of a meeting to be held not less than twenty nor more than ninety days after the receipt of such request, as such officer shall fix. If such notice is not given within forty days after the delivery or mailing of such request, the person or persons calling the meeting may fix the time of meeting and give, or cause to be given, notice in the manner hereinafter provided.

Section 3. Place of Meetings

Any meeting of shareholders may be held either at the principal office of the Company or at such other place within or without the State of Ohio as may be designated in the notice of said meeting.

Section 4. Notice of Meetings

Not more than sixty days nor less than seven days before the date fixed for a meeting of shareholders, whether annual or special, written notice of the time, place and purposes of such meeting shall be given by or at the direction of the President, a Vice President, the Secretary or an Assistant Secretary. Such notice shall be given either by personal delivery or by mail to each shareholder of record entitled to notice of such meeting. If such notice is mailed, it shall be addressed to the shareholders at their respective addresses as they appear on the records of the Company, and notice shall be deemed to have been given on the day so mailed. Notice of adjournment of a meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting.

Section 5. Quorum

To constitute a quorum at any meeting of shareholders, there shall be present in person or by proxy shareholders of record entitled to exercise not less than fifty percent of the voting power of the Company in respect of any one of the purposes for which the meeting is called.

The shareholders present in person or by proxy, whether or not a quorum be present, may adjourn the meeting from time to time.

Section 6. Voting

In all cases, except where otherwise by statute or the Articles or the Regulations provided, a majority of the votes cast shall control.

Section 7. Action Without a Meeting

Any action which may be authorized or taken at a meeting of the shareholders may be authorized or taken without a meeting in a writing or writings signed by all of the shareholders who would be entitled to notice of a meeting for such purpose, which writing or writings shall be filed with or entered upon the records of the Company.

ARTICLE II

DIRECTORS

Section 1. Election, Number and Term of Office

The Directors shall be elected at the annual meeting of shareholders, or if not so elected, at a special meeting of shareholders called for that purpose, and each Director shall hold office until the date fixed by these Regulations for the next succeeding annual meeting of shareholders and until his successor is entitled, or until his earlier resignation, removal from office, or death. At any meeting of shareholders at which Directors are to be elected, only persons nominated as candidates shall be eligible for election.

The number of Directors, which shall not be less than three, may be fixed or changed at a meeting of the shareholders called for the purpose of electing Directors at which a quorum is present, by the affirmative vote of the holders of a majority of the shares represented at the meeting and entitled to vote on such proposal. In case the shareholders at any meeting for the election of Directors shall fail to fix the number of Directors to be elected, the number elected shall be deemed to be the number of Directors so fixed.

In addition to the authority of the shareholders to fix or change the number of Directors, the number of Directors so fixed may be increased or decreased by not more than two between shareholders' meetings by the Board of Directors at a meeting or by action without a meeting, and the number of Directors as so changed shall be the number of Directors until further changed in accordance with this Section; provided, that no such decrease in the number of Directors shall result in the removal of any incumbent Director or reduction in the term of any incumbent Director. In the event that the Directors increase the number of Directors, the Directors who are then in office may fill any vacancy created thereby.

Section 2. Meetings

Regular meetings of the Directors shall be held immediately after the annual meeting of shareholders and at such other times and places as may be fixed by the Directors, and such meetings may be held without further notice.

Special meetings of the Directors may be called by the Chairman of the Board or by the President or by a Vice President or by the Secretary, or by not less than one-third of the Directors. Notice of the time and place of a special meeting shall be served upon or telephoned to each Director at least twenty-four hours, or mailed, telegraphed or cabled to each Director at least forty-eight hours, prior to the time of the meeting.

Section 3. Quorum

A majority or five (whichever is the lesser) of the Directors then in office shall constitute a quorum for the transaction of business, but if any other meeting of the Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall attend.

Section 4. Action Without a Meeting

Any action which may be authorized or taken at a meeting of the Directors may be authorized or taken without a meeting in a writing or writings signed by all the Directors, which writing or writings shall be filed with or entered upon the records of the Company.

Section 5. Committees

The Directors may from time to time create a committee or committees of Directors to act in the intervals between meetings of the Directors and may delegate to such committee or committees any of the authority of the Directors other than that of filling vacancies among the Directors or in any committee of the Directors. No committee shall consist of less than three Directors. The Directors may appoint one or more Directors as alternate members of any such committee, who may take the place of any absent member or members of any meeting of such committee.

In particular, the Directors may create and define the powers and duties of an Executive Committee. Except as above provided and except to the extent that its powers are limited by the Directors, the Executive Committee during the intervals between meetings of the Directors shall possess and may exercise, subject to the control and direction of the Directors, all of the powers of the Directors in the management and control of the business of the Company, regardless of whether such powers are specifically conferred by these Regulations. All action taken by the Executive Committee shall be reported to the Directors at their first meeting thereafter.

Unless otherwise ordered by the Directors, a majority of the members of any committee appointed by the Directors pursuant to this section shall constitute a quorum at any meeting thereof, and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of such committee. Action may be taken by any such committee without a meeting by a writing or writings signed by all of its members. Any such committee shall prescribe its own rules for calling and holding meetings and its method of procedure, subject to any rules prescribed by the Directors, and shall keep a written record of all action taken by it.

ARTICLE III

OFFICERS

Section 1. Officers

All of the officers and assistant officers shall be elected by the Directors. The Company may have a Chairman of the Board and shall have a President (both of whom shall be Directors), a Secretary and a Treasurer. The Company may also have one or more Vice Presidents and such other officers and assistant officers as the Directors may deem necessary.

Section 2. Authority and Duties of Officers

The officers of the Company shall have such authority and shall perform such duties as are customarily incident to their respective offices, or as may be specified from time to time by the Directors regardless of whether such authority and duties are customarily incident to such office.

ARTICLE IV

INDEMNIFICATION, INSURANCE AND LIMITATION OF LIABILITY

Section 1. Indemnification

(a) The Company shall indemnify any person who was or is a party or is threatened with being made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including all appeals (other than an action, suit or proceeding by or in the right of the Company) by reason of the fact that he is or was a Director, officer or employee of the Company, or is or was serving at the request of the Company as a Director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal action, suit or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

(b) The Company shall indemnify any person who was or is a party or is threatened with being made a party to any threatened, pending or completed action, suit or proceeding, including all

appeals, by or in the right of the Company to procure a judgment in its favor by reason of the fact that he is or was a Director, officer or employee of the Company, or is or was serving at the request of the Company as a Director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company, except that no indemnification shall be made in respect of any of the following:

(1) any claim, issue, or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his duty to the Company unless, and only to the extent that the court of common pleas, or the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court shall deem proper;

(2) any action or suit in which the only liability asserted against a Director is pursuant to Section 1701.95 of the Ohio Revised Code.

(c) Without limiting the right of any Director, officer or employee of the Company to indemnification under any other subsection hereof, if such person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) of this section, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the action, suit or proceeding.

(d) Except in a situation governed by subsection (c), any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Director, officer or employee is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who are not or were not parties to or threatened with such action, suit or proceeding, or any other action, suit or proceeding arising from the same or similar operative facts, or (2) if such a quorum is not obtainable, or even if obtainable, if a majority of such quorum of disinterested Directors so directs, by independent legal counsel (compensated by the Company) in a written opinion, or (3) if there be no disinterested Directors, or if a majority of the disinterested Directors, whether or not a quorum, so directs, by vote in person or by proxy of the holders of a majority of the shares entitled to vote in the election of

Directors, without reference to default or contingency which would permit the holders of one or more classes of shares to vote for the election of one or more Directors.

(e) Unless the only liability asserted against a Director in an action, suit or proceeding referred to in subsections (a) and (b) of this section is pursuant to Section 1701.95 of the Ohio Revised Code, expenses, including attorneys' fees, incurred by a Director in defending the action, suit or proceeding shall be paid by the Company as they are incurred, in advance of the final disposition of the action, suit or proceeding upon receipt of an undertaking by or on behalf of the Director in which he agrees to do both of the following:

(1) repay such amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company.

(2) reasonably cooperate with the Company concerning the action, suit or proceeding.

Expenses, including attorneys' fees, incurred by other persons entitled to indemnification hereunder in defending any action, suit or proceeding referred to in subsections (a) and (b) of this section may be paid by the Company as they are incurred, in advance of the final disposition of the action, suit or proceeding as authorized by the Directors in the specific case upon receipt of an undertaking by or on behalf of such persons to repay such amount, if it ultimately is determined that he is not entitled to be indemnified by the Company.

(f) The indemnification authorized by this Article shall not be exclusive of and shall be in addition to any other rights granted to any person as a matter of law, by the Articles, Regulations, agreements, insurance, vote of shareholders or otherwise, with respect to action in his official capacity and with respect to action in another capacity while holding such office and shall continue as to a person who has ceased to be a Director, officer, or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Subsections (a) through (f) of this Article shall apply to such agents of the Company as are designated at any time by the Board of Directors.

(h) If any part of this Article shall be found, in any action, suit or proceeding, to be invalid or ineffective, the validity and the effect of the remaining parts shall not be affected.

Section 2. Liability Insurance

(a) The Company may purchase and maintain insurance or furnish similar protection, including but not limited to trust funds, letters of credit or self-insurance, on behalf of or for any person who is or was a Director, officer, employee or designated agent of the Company or is or was serving at the request of the Company as a Director, officer, employee or designated agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Company would have the power to indemnify him against such liability under the provisions of this Article or of Chapter 1701 of the Ohio Revised Code. Insurance may be purchased from or maintained with a person in which the Company has a financial interest.

(b) The Company is expressly authorized to enter into any indemnification or insurance agreements with or on behalf of any person who is or was a Director, officer, employee or designated agent of the Company or is or was serving at the request of the Company as a Director, officer, employee or designated agent of another corporation, partnership, joint venture, trust or other enterprise, in accordance with the terms of this Article IV or the laws of the State of Ohio. Such agreements may include, but are not limited to agreements providing for indemnification or the advancement of expenses under Section 1 of this Article IV, agreements providing for insurance, indemnification or the advancement of expenses by way of self-insurance, whether or not funded through the use of a trust, escrow agreement, letter of credit, etc., in accordance with subsection (a) of this Section 2, and agreements providing for insurance or indemnification through the commercial insurance market.

Section 3. Limitation of Liability

(a) No person shall be found to have violated his duties to the Company as a Director of the Company in any action brought against such Director (including actions involving or affecting any of the following: (1) a change or potential change in control of the Company; (2) a termination or potential termination of his service to the Company as a Director; or (3) his service in any other position or relationship with the Company), unless it is proved by clear and convincing evidence that the Director has not acted in good faith, in a manner he reasonably believes to be in or not opposed to the best interests of the Company, or with the care that an ordinarily prudent person in a like position would use under similar circumstances. Notwithstanding the foregoing, nothing contained in this paragraph (a) limits relief available under Section 1701.60 of the Ohio Revised Code.

(b) In performing his duties, a Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, that are prepared or presented by: (1) one or more Directors, officers or

employees of the Company whom the Director reasonably believes are reliable and competent in the matters prepared or presented; (2) counsel, public accountants, or other persons as to matters that the Director reasonably believes are within the person's professional or expert competence; or (3) a committee of the Directors upon which he does not serve, duly established in accordance with the provisions of these Regulations, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

(c) A Director in determining what he reasonably believes to be in the best interests of the Company shall consider the interests of the Company's shareholders and, in his discretion, may consider (1) the interests of the Company's employees, suppliers, creditors and customers; (2) the economy of the state and nation; (3) community and societal considerations; and (4) the long-term as well as short-term interests of the Company and its shareholders, including the possibility that these interests may be best served by the continued independence of the Company.

(d) A Director shall be liable in damages for any action he takes or fails to take as a Director only if it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company. Notwithstanding the foregoing, nothing contained in this paragraph (d) affects the liability of Directors under Section 1701.95 of the Ohio Revised Code or limits relief available under Section 1701.60 of the Ohio Revised Code.

ARTICLE V

MISCELLANEOUS

Section 1. Transfer and Registration of Certificates

The Directors shall have authority to make such rules and regulations as they deem expedient concerning the issuance, transfer and registration of certificates for shares and the shares represented thereby and may appoint transfer agents and registrars thereof.

Section 2. Substituted Certificates

Any person claiming a certificate for shares to have been lost, stolen or destroyed shall make an affidavit or affirmation of that fact, shall give the Company and its registrar or registrars and its transfer agent or agents a bond of indemnity satisfactory to the Directors or to the Executive Committee or to the President or a Vice President and the Secretary or the Treasurer, whereupon a new certificate may be executed and delivered of the same tenor and for the same number of shares as the one alleged to have been lost, stolen or destroyed.

Section 3. Articles to Govern

In case any provision of these Regulations shall be inconsistent with the Articles, the Articles shall govern.

Section 4. Amendments

These Regulations may be amended by the affirmative vote or the written consent of the shareholders of record entitled to exercise a majority of the voting power on such proposal, provided, however, that if an amendment is adopted by written consent without a meeting of the shareholders, the Secretary shall mail a copy of such amendment to each shareholder of record who would have been entitled to vote thereon and did not participate in the adoption thereof.

NOTICE ABOUT PUBLICATION

THIS DOCUMENT IS A PUBLICATION. IT IS AVAILABLE FOR REVIEW AT THE U.S.
EPA SUPERFUND RECORDS CENTER, 290 BROADWAY, 18TH FLOOR, NEW YORK, NY

10007

PHONE: (212) 637-4308.

844180054

...committed to being

America's Paint Company



Annual Report 1993

NOTICE ABOUT PUBLICATION

THIS DOCUMENT IS A PUBLICATION. IT IS AVAILABLE FOR REVIEW AT THE U.S.
EPA SUPERFUND RECORDS CENTER, 290 BROADWAY, 18TH FLOOR, NEW YORK, NY
10007

PHONE: (212) 637-4308.

Amended Articles of

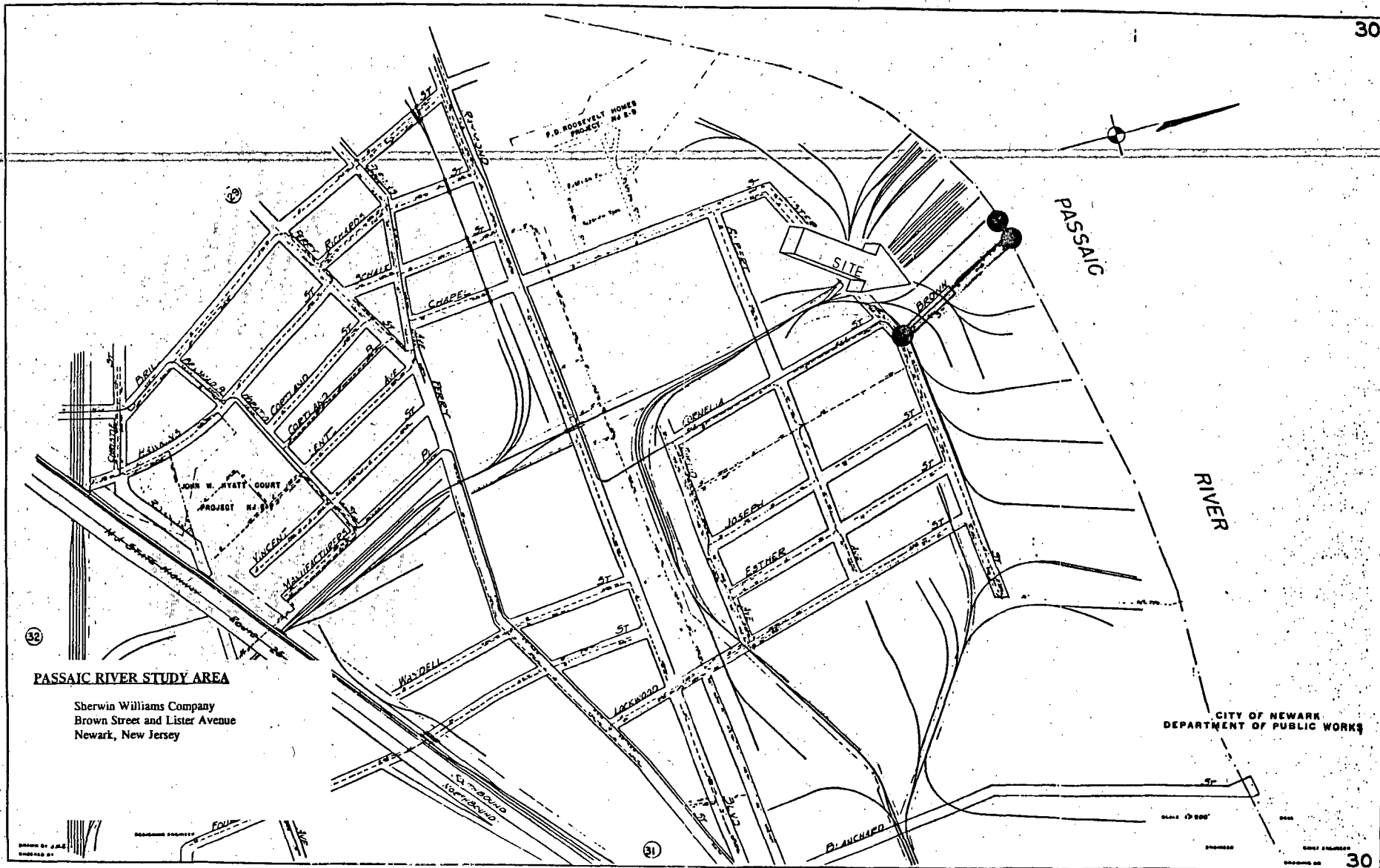
Incorporation

of

THE SHERWIN-WILLIAMS COMPANY

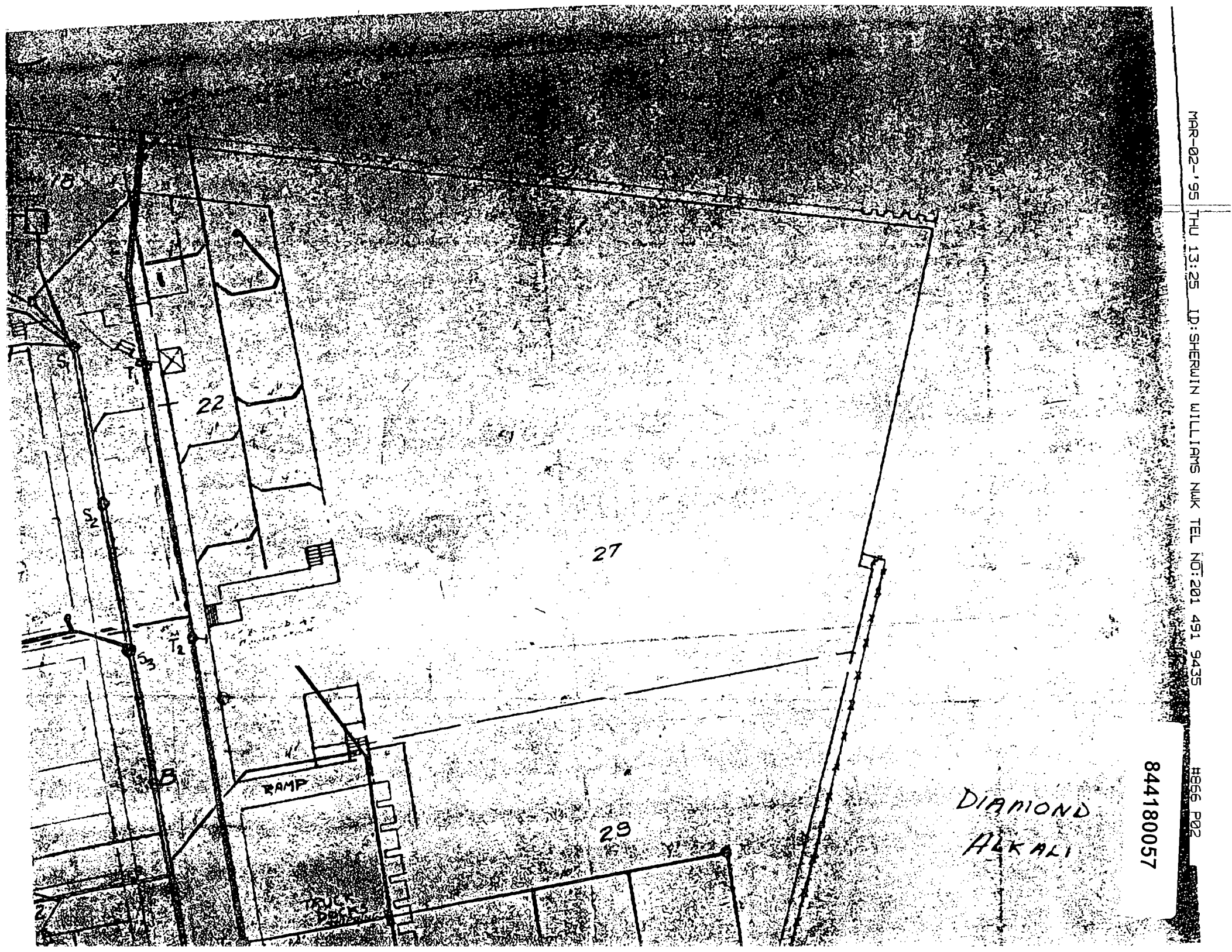
As amended through
April 28, 1993

844180055



844180057

DIAMOND
ALKALI



844180058

MAR-02-'95

THU 13:28

ID: SHERWIN WILLIAMS NAK TEL NO: 201 491 9435

#866 P03

